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RMullmanjr@aol.com

BERNARD B. POLIAKOFF

1916-1965

J. MANNING POLIAKOFF

1923-1969

MATTHEW POLIAKOFF

1919-1979

October 1, 1999

Ms. Diana A. Love
Director
National Enforcement Investigations Center
United States Environmental Protection Agency
Post Office Box 25227
Building 53
Denver Federal Center
Denver, CO 80225

COPY

RE: Project No.: R55, VP 0300

**Contamination of Westgate Trailer Park & King Acres Subdivision,
Greer, South Carolina/Exide Corporation**

Dear Ms Love:

We represent a number of persons who have resided in Westgate Trailer Park and King Acres subdivision, both adjacent to the Exide facility in Greer, S.C.. Claims include a number of children with high blood lead levels and accompanying physical, emotional, and behavioral problems, and property contamination claims.

We understand that the NEIC issued a draft report more than 18 months ago, tentatively finding Exide to be the likely source of lead contamination at Westgate Trailer Park. While any other source appears to be highly improbable, this NEIC Report is necessary because Exide for years has denied responsibility and has for years attempted to avoid and delay responsibility for clean up. We enclose for your review various correspondence from Exide to this effect.

Correspondence from Exide indicates that Exide has attempted to prevent or derail the final NEIC Report. The Report remains necessary and productive. We request that the final Report be issued without delay, or that a valid reason be given for any cancellation of the Report. If for any



10664575

Page Two
Ms. Diana A. Love
October 1, 1999

reason the latter has occurred, we hereby request copies of all correspondence, records and memos regarding this matter from Exide and NEIC, names of all contacts and persons involved in any discussions and in any decision to cancel the Report, and identification of all efforts by Exide to bring about any such cancellation. We hope instead that the final Report will be issued soon.

At present a very limited cleanup is being conducted at Westgate Trailer Park (removal of only 3 inches of topsoil, even though at least 6 inches was recommended). At King Acres Subdivision, also adjacent to Exide, no cleanup has taken place at all. Further, Exide continues to resist sufficient clean up at Westgate; any cleanup at King Acres; and financial responsibility for all of the above. Virtually all of DHEC's efforts to require even a limited cleanup are continuously opposed by Exide.

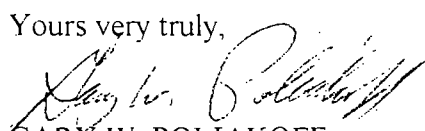
These cleanups have been delayed for many years due to Exide's resistance. At present, numerous children at Westgate Trailer Park are suffering a variety of serious physical and emotional problems related to lead exposure. And although Exide has purchased a number of homes in King Acres which have high soil lead levels, Exide is still leasing these houses to tenants, some with infants. These lead toxicity injuries have resulted from Exide's continuing efforts to delay cleanup.

We recently wrote DHEC, requesting thorough cleanup of both Westgate Trailer Park and King Acres Subdivision. A copy of that letter, detailing some of this history, is enclosed.

We look forward to hearing from you and receiving the final report.

With best regards I am,

Yours very truly,


GARY W. POLIAKOFF
Attorney at Law, P.A.

GWP/cb
Enclosures

cc: Mr. Steve Machemer, Project Leader, NEIC
Ms. Theresa Hosicle, NEIC
Mr. Reuben Bussey, US EPA, Region IV
Mr. Warren Dixon, US EPA Region IV
Mr. Ralph Howard, US EPA, Region IV
Mr. Bruce Miller, US EPA Region IV
Legal Department, S.C. DHEC
(all w/ enclosures)

Greer - Air Permit

LAW OFFICES

OGLETREE, DEAKINS, NASH, SMOAK & STEWART, L.L.P.

THE OGLETREE BUILDING
300 NORTH MAIN STREET
GREENVILLE, SOUTH CAROLINA 29602
TELEPHONE (803) 271-1300
FACSIMILE (803) 235-4754

RECEIVED

MAR 21 1995

ENV. RESOURCES

April 20, 1995

ERIC C. SCHWEITZER
PARTNER

OTHER OFFICES:
ATLANTA, GEORGIA
WASHINGTON, D.C.
RALEIGH, NORTH CAROLINA
COLUMBIA, SOUTH CAROLINA
NASHVILLE, TENNESSEE
ALBANY, NEW YORK

Ms. Jewell Harper, Chief
Air Enforcement Branch
U. S. Environmental Protection Agency
Region IV
345 Courtland Street, N. E.
Atlanta, GA 30365
Attn: Ms. Jean Campbell

Re: Information Request of Exide Corporation
Dated March 17, 1995

Dear Ms. Harper:

This will acknowledge receipt of an information request dated March 17, 1995 (the "Information Request"), which the U. S. Environmental Protection Agency ("EPA") directed to Exide Corporation ("Exide" or the "Company"). By an exchange of telephone messages, Exide was advised that Linda Crum, Esquire, the Assistant Regional Counsel identified in the Information Request, had granted Exide an extension to respond to the Request to thirty (30) days after Exide's receipt of the Request, or April 20, 1995.

The Request directs Exide to provide the information sought on two enclosures: Enclosure A requests information on ten (10) subject areas and is responded to below; Enclosure B seeks economic and financial information on the Company's operations including, but not limited to its purchase of pollution control equipment at its Greer, South Carolina facility (the "Facility").

The information requested in Enclosure B is clearly designed to provide information needed to run the Benefit of Economic Noncompliance ("BEN") model which EPA uses to calculate a penalty for violations of law. Compiling this financial data is extremely burdensome and time-consuming. Exide officials have have worked diligently since receiving the request to provide the information described in Enclosure A. The information sought in Enclosure B could not possibly be assembled, even with the additional time provided by Ms. Crum. In order to compile the Enclosure B information, Exide will need to obtain substantial assistance from members of its corporate Finance Department. These individuals have been unavailable due to the March 31 end of our fiscal year and the reporting requirements (mostly imposed by the Securities Exchange Commission) which arise during this time. Even with the assistance of these individuals, it is doubtful that all of the information could be compiled within thirty (30) days. We request that this information not be requested unless and until a violation is

established. If we get to that point, we will make every effort to provide the appropriate information in a timely manner.

As to the information sought in Enclosure A, Exide notes that EPA's stated purpose for the Request is to determine whether "Exide may have facilities at the Greer plant which are subject to the . . . NSPS Subpart KK Regulation . . . , but which have not been identified as such in the past." See Letter from Mr. Winston A. Smith, Director, Air, Pesticides and Toxics Management Division, to Mr. David Neal, Manager, dated March 17, 1995, at Page 1. Given the time commitment needed just to obtain information relevant to this point, Exide has limited its response to information relevant to its compliance with the Subpart KK Regulation, i.e., information which relates to the installation or modification of sources covered by Subpart KK at any time since the promulgation of that subpart. Since this covers a period of fifteen (15) years of operation -- less than half of which has been during Exide's ownership -- you may be assured that this has required an extensive commitment of manpower during the time given for a response.

In order to avoid any misunderstanding, Exide interprets Subpart KK as applying to any of the operations identified in that subpart, i.e., grid casting, paste mixing, three-process operations, lead oxide manufacturing, lead reclamation and other lead-emitting operations, to the extent such operations are present in the Greer Facility. See 40 CFR § 60.370(b). Exide has used the definitions of these terms contained in the regulations where inconsistency between the regulatory definitions and those contained in the Information Request appear.

Finally, Exide notes that it has devoted substantial efforts to locate relevant information maintained in its files. It should be noted that Exide acquired General Battery Company ("GBC") in 1987, more than seven (7) years after the NSPS Regulation became effective. We note this principally because the fact that more than one company has owned the Greer Facility in the relevant period means that there have been different document retention policies in effect throughout this period. It is therefore possible that some documents covered by this Information Request are no longer in existence. Exide's responses to the Information Request are necessarily limited to the information which is available in those records which were in the Company's possession, custody and control as of the day on which the Company received the Information Request. All such documents remain in the Company's possession, custody and control as of this date and will be maintained until further notice.

Notwithstanding the foregoing, Exide notes that EPA's own regulations require that relevant documents be retained for time periods substantially less than the fifteen-year period covered by the Information Request. See, e.g., 40 CFR §§ 60.7 (plant shutdown records must be maintained for 2 years); 60.373 (plant monitoring records to be maintained for 3 years). Where such records continue to be maintained in Exide's files, they have been produced, but it is distinctly possible that relevant documents have not been maintained even though the Company's document retention policies are consistent with these and other applicable EPA regulations.

With that in mind, Exide Corporation provides the following responses to the Information Requests. As a preliminary matter, please note that these responses have been prepared with the assistance and input of a number of representatives of Exide Corporation, including Ari D. Levine, Esquire, Assistant General Counsel-Environmental Services,

Mr. Matthew A. Love, Project Manager, Environmental Resources, and Mr. Michael G. Stitche, Plant Superintendent at the Greer Facility.

1. *Complete Enclosure B, titled Pollution Control Equipment Economic Information and include all relevant documentation.*

[See discussion and request above]

2. *Identify, by plant identification number, the initial date of construction and startup for each lead source for which construction at this Exide Corporation plant commenced before or on January 14, 1980.*

Exide objects to this Information Request on the grounds that Subpart KK, by its express terms, does not apply to construction of lead sources prior to or on January 14, 1980. See 40 CFR § 60.370(c). However, for any lead source constructed before January 14, 1980, which has been altered since that date, the information regarding the alteration is provided in response to item 5 below.

3. *Identify, by plant identification number, the initial date of construction and startup for each lead source for which construction at this Exide Corporation plant commenced after January 14, 1980.*

Please find enclosed those documents found in Exide's files which reveal the initial date of construction and startup for each lead source covered by Subpart KK for which construction at the Greer Facility commenced after January 14, 1980. For your convenience, we have attempted to group documents by project rather than chronologically on a facility-wide basis.

4. *If any activity at this Exide Corporation plant was not specifically identified in item numbers 2 and 3 of this Information Request, and is expected to emit or does emit any criteria pollutant, list the plant identification number, activity, the initial date of the activity and the initial startup date associated with this activity.*

Exide notes that the stated purpose of the Information Request is to determine whether Exide has complied with the NSPS requirements found in 40 CFR, Part 60, Subpart KK. That Subpart, by its express terms, is limited to regulation of certain specified sources of lead air emissions; information relevant to those sources is provided in response to item number 3. The facility is not a major source of any criteria pollutant. A copy of the permit renewal application, which included the existing limits for criteria pollutants, is provided with this submission. If you require additional information, please let us know.

5. *If the activity identified in item numbers 2 through 4 of this Information Request has been altered since its original construction at this plant, list the plant identification number, activity, the dates of the activity and provide any documentation associated with the activity including, but not limited to subsequent test data associated with the activity.*

Exide incorporates its responses to item numbers 2 through 4 of this Information Request as if the same were fully set forth herein. Exide is providing the requested information with respect to those sources identified in its response to item number 3. Exide is also providing the requested information with respect to sources constructed prior to January 14, 1980, which have been modified or altered since that date sufficient to render them subject to Subpart KK. Please find enclosed those documents found in Exide's files which contain such information.

6. *If any activity identified in item numbers 2 through 5 of this Information Request has been permanently shut-down, provide the plant identification number, activity and dates of shut-down.*

Exide incorporates its responses to item numbers 2 through 5 of this Information Request as if the same were fully set forth herein. Exide is providing the requested information with respect to those sources identified in its response to item numbers 3 and 5 of this Information Request. Please find enclosed those documents found in Exide's files which contain the shut-down dates of all such equipment, with plant identification number, where possible.

7. *Provide annual emission rates associated with each lead source for all criteria pollutants from 1975 to the present.*

Please note that Subpart KK, by its express terms, is limited to those specified lead air sources which have been constructed or sufficiently modified after January 14, 1980. We are therefore providing the relevant records from January 14, 1980 forward. Please note that continuous monitoring of criteria pollutants is not required by the permit. Stack test data and reports are being submitted. Exide's compliance with any restrictions contained in its air permits is established by the data and reports submitted herewith; no other data or calculations have been created and none are required by the permits.

8. *Provide emission test report summaries for each lead source.*

Exide is providing the requested information for each lead source covered by Subpart KK.

9. *Provide documentation of any other plant reconstruction expansion or shut-down not already identified from 1975 until present.*

The Company's responses to item numbers 1 through 8 of this Information Request include the relevant information for sources covered by Subpart KK.

10. *Identify all activities for which permits to construct or operate have never been obtained.*

Exide hereby incorporates its response to item numbers 1 through 9 of this Information Request, and the documents produced in conjunction therewith. Exide does not believe any activity which required a permit has occurred since its purchase of the facility in 1987. Obviously, we cannot respond for any undocumented activity prior to the purchase.

* * * * *

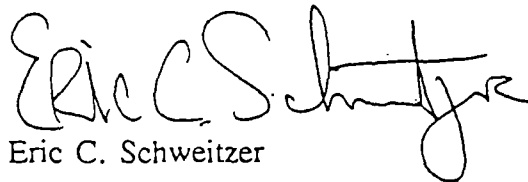
At approximately noon on April 19, 1995 (the date this letter was originally drafted), Matt Love of Exide discovered several file drawers containing documents maintained by a former management official in the engineering office of the Greer plant. It is not known if any documents contained in these files are responsive to the information request. The files will be examined and any responsive documents will be forwarded as quickly as possible. These files were not identified in earlier search activities since the former manager had left the Company prior to receipt of the Information Request.

* * * * *

We appreciate your consideration of these responses. If you wish to discuss these responses, please do not hesitate to contact Mr. Levine at (610) 378-0852 or me.

Sincerely,

OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, L.L.P.


Eric C. Schweitzer

ECS:rhq
Enclosure

cc: Ari D. Levine, Esquire

EXIDE[®] CORPORATION

NEAL S. LEBOWITZ

Dial Direct:

(610) 921-4040

VIA FAX & FIRST CLASS MAIL

May 15, 1996

Mr. Matthew G. Kanes
South Carolina Department of
Health and Environmental Control
Division of Engineering Services
Bureau of Air Quality Control
2600 Bull Street
Columbia, SC 29201-1708

Re: Part 70 Applicability (1200-0056)

Dear Mr. Kanes:

By your letter dated April 17, 1996, the South Carolina Department of Health and Environmental Control (the "Department") requested that Exide Corporation submit, by May 15, 1996, information demonstrating that potential Sulfuric Acid (H_2SO_4) emissions from Exide's facility in Greer, South Carolina, are less than ten (10) tons per year for purposes of determining applicability of Title V (Part 70) air quality permit requirements. Your letter explains that emissions of Sulfuric Acid (H_2SO_4) are Hazardous Air Pollutants (HAPs) and therefore must be considered in the facility's potential to emit.

Exide is unaware that Sulfuric Acid (H_2SO_4) has been included as a HAP listed pursuant to Section 112(b) of the Clean Air Act, and therefore believes any potential emissions of Sulfuric Acid are excluded from the HAP potential to emit determination. Exide wishes to discuss this matter with the Department to learn what basis the Department is using to include Sulfuric Acid emissions as a HAP in the Title V applicability determination.


By letter dated April 25, 1996, from Mr. Ari Levine, you were notified that Exide is scheduling a meeting for the near future through the Department's Mr. Henry Phillips to discuss Draft Operating Permit No. 1200-0056 issued to the Greer facility. Exide hereby requests that we include discussion on applicability of Sulfuric Acid emissions from the facility in that meeting, and that the Department defer the Title V determination until after that discussion takes place.

Mr. Matthew G. Kanes
May 15, 1996

Page 2

If the Department does not agree to defer the Title V determination, please notify me by telephone at once. Otherwise, we will plan for discussion on this matter in our meeting.

Very truly yours,



Neal S. Lebo
Regional Environmental,
Health & Safety Manager

cc: Henry Phillips, SCDHEC
Ari Levine, Exide

May 6, 1997

Mrs. Shirley Poteat
203 Bent Creek Drive
Greer, SC 29650

SUBJECT: Soil Sampling on Lots 44 and 45 Kings Acres Subdivision
Greer, South Carolina

Dear Mrs. Poteat:

Per your request of April 21, 1997, we are herein providing the most recent soil data directly to you rather than to Mr. John Few as previously directed. On March 20, 1997, The Fletcher Group collected six (6) additional surface soil samples from Lots 44 and 45. The results of the samples are as follows:

Lot No.	Sample Description	Lead Concentration (ppm)
Lot 44	B44-03	510
Lot 44	B44-04	690
Lot 44	B44-05	437
Lot 44	B44-06	730
Lot 45	B45-02	1360
Lot 45	B45-03	593

A complete Phase III report on the Kings Acres subdivision soil sampling is scheduled to be submitted to SC DHEC during May 1997. Within the report, Exide may propose to conduct additional assessment on lots 44 and 45, with your permission. Following review and comment by SC DHEC, the full report will be placed by SC DHEC in the information repository at the Greer Library.

If you have any questions concerning the on-going study, please feel free to call me at (864) 422-9999, or the Project Manager with SC DHEC, Mr. Mike Klender, at (803) 896-4073, or the district office SC DHEC contact, Mr. Charles Bristow, at (864) 241-1090.

Sincerely,

The Fletcher Group, Inc.



Kathy Webb, PG

cc: Mike Klender, SC DHEC
Charles Bristow, SC DHEC District II

0019798

GREER EXIDE





2600 Bull Street
Columbia, SC 29201-1708

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May 22, 1997

Mr. Neal S. Lebo
Exide Corporation
Post Office Box 13995
Reading, PA 19612-3995

RE: Westgate Trailer Park
Exide Battery
Greenville County

Dear Mr. Lebo:

The Department has determined that remediation of the Westgate Trailer Park is necessary and, therefore, requests that Exide Corporation submit for Departmental approval a Remediation Plan including a schedule for implementation for Westgate Trailer Park in accordance with Consent Order 96-12-HW. This Remediation Plan must address the removal and proper disposal of all contaminated soils in addition to any other alternatives proposed by Exide Corporation. All alternatives proposed in the Remediation Plan shall be based on a cleanup goal of 400 mg/kg total lead, as recommended by the EPA Region IV. The data provided in the January Report shows that the several areas in the Park exceed the 400 mg/kg cleanup level. Please submit the Remediation Plan within thirty (30) days of receipt of this letter.

If Exide Corporation is unwilling to implement the approved Remediation Plan, then the Department is prepared to remediate the site using the Hazardous Waste Contingency Fund and to pursue cost recovery against Exide.

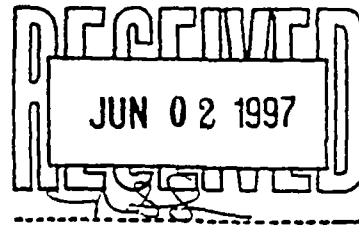
If you have any questions concerning this matter or any other related issues, feel free to contact me at (803) 896-4073.

Sincerely,

Michael H. Klender, P.E.
Project Manager
Division of Site Assessment and Remediation
Bureau of Land and Waste Management

exide22.MHK

pc: Douglas C. Johns, Director - Appalachia II
Gary Stewart, Manager
Carol Minsk, Hydrogeologist
Bill Galardi, Bureau of Air
Dr. Marino, Division of Health Hazard Evaluation



Route JPB

copy: D. R. Kind
M. Love



PROMOTED TO PROJECT PROJECT

2600 Bull
Columbia, SC 29208

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Rodney L. Grandy

Greenville, SC 29605

RE: King Acres Subdivision Phase III Report/Phase IV
Workplan
Exide Battery
Greenville County
SCD 042 633 859

Dear Ms. Webb:

The above referenced report has been received and reviewed by Michael Klender of the Division of Site Assessment and Remediation and Carol Minsk of the Division of Hydrogeology. Enclosed is a map with additional sample locations shown to provide a more defining shape of the plumes on all three areas. The plume delineation needs to define lead levels to the EPA cleanup level of 400 mg/kg.

If you have any questions concerning our review of the referenced document or any other related issues feel free to contact Mike Klender at (803) 896-4073 or if not available, Carol Minsk at 896-4032.

Sincerely,

Michael H. Klender
Michael H. Klender, P.E.
Project Manager
Division of Site Assessment and Remediation
Bureau of Land and Waste Management

RECEIVED

JUN 9 1997

Carol C. Minsk
Carol C. Minsk
Project Hydrogeologist
Division of Hydrogeology
Bureau of Land and Waste Management

RECEIVED

JUN 03 1997

S.C.D.H.E.C.
SPARTANBURG

exide23.MHK

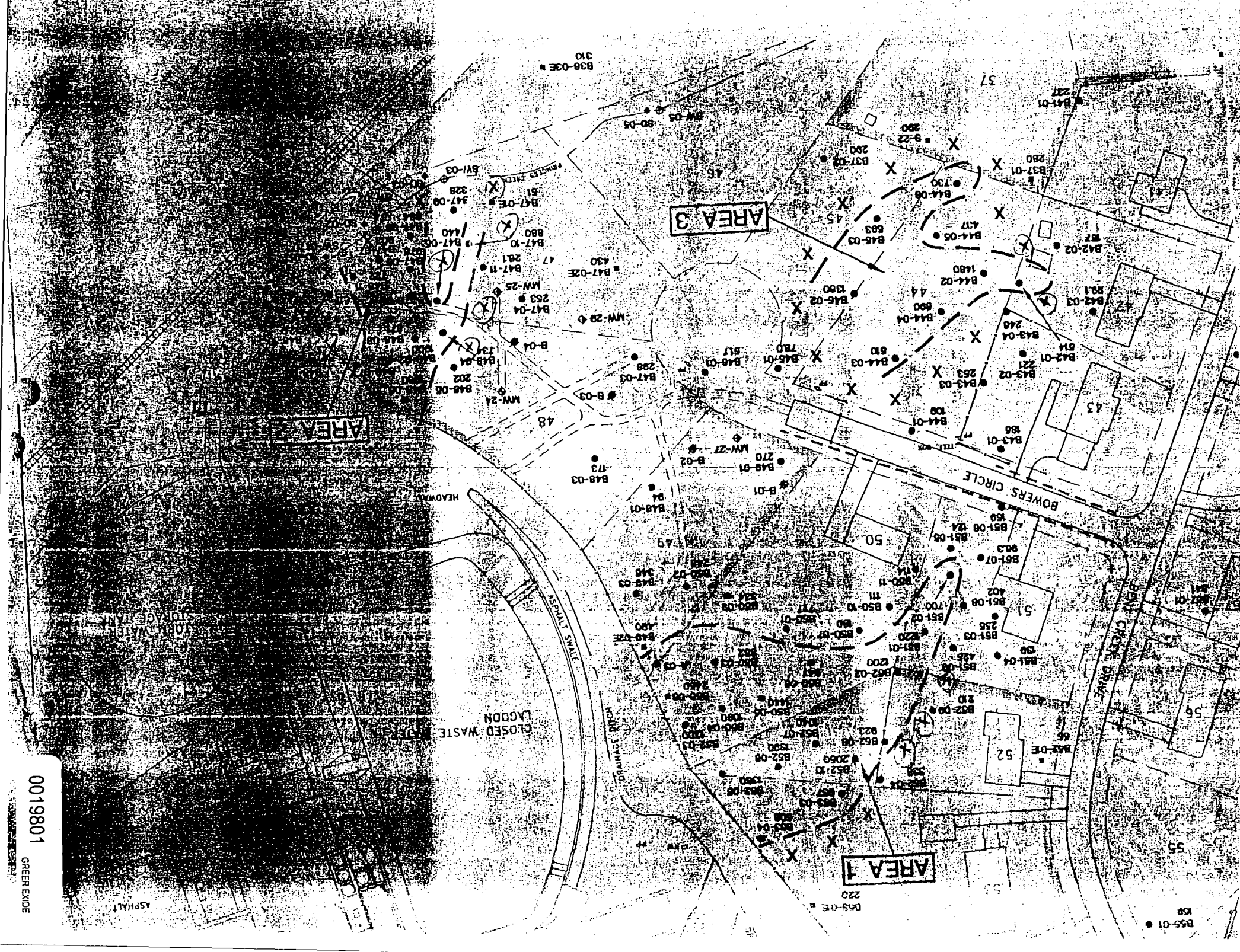
pc: Neal Lebo - Exide
Douglas C. Johns, Director - Appalachia II
Pam Baker, Enforcement

0019800

GREER EXIDE

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

GREER EXIDE



VIA AIRBORNE EXPRESS

June 10, 1997

Mr. Michael H. Klender
Bureau of Land and Waste Management
South Carolina Department
of Health and Environmental Control
2600 Bull Street
Columbia, SC 29201-1708

Re: Westgate Trailer Park
Exide Battery, Greenville County

Dear Mr. Klender:

On June 2, 1997, Exide Corporation received your letter of May 22, 1997, in which the South Carolina Department of Health and Environmental Control (the "Department") indicates that further remediation of the Westgate Trailer Park is required. Exide intends to fully comply with Consent Order 96-12-HW by submitting a Remediation Plan. However, in order that the Remediation Plan suggest a course of action that is truly necessary and appropriate, Exide needs to better understand the Department's conclusions and rationale on this matter before preparing the Remediation Plan.

Please provide us with a statement, or some other Department document, which provides the basis for the conclusion that additional remediation is required at Westgate Trailer Park. We also again request the results of all blood-lead testing of the residents of Westgate Trailer Park. Also, please provide the source of the recommendation from the Environmental Protection Agency Region IV that the appropriate clean-up level is 400 ppm. This is particularly important since EPA recently performed a limited soil remediation in sections of the trailer park and used a 500 ppm clean-up level. Lastly, Exide requests that you provide all information, reports or other documents which support the conclusion that Exide is responsible for the lead concentrations found in the soils to be remediated.

Michael H. Klender
June 10, 1997

Page 2

Because of the time required for the Department to forward the information and for Exide to review it, we request that the deadline for submittal of the Remediation Plan be extended to within 30 days of Exide's receipt of the information requested in this letter. If you have any questions, please contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Neal S. Ebo', with a large, stylized flourish at the end.

Neal S. Ebo
Manager
Environmental Operations

0019803

GREER EXIDE

EXIDE[®] CORPORATION

NEAL S. LEBO

Dial Direct: (610) 921-4040

E-mail: nleboexide@aol.com

Kings Acres

VIA AIRBORNE EXPRESS

RECEIVED

June 30, 1997

JUL 1 1997

Env. Resources

Mr. Michael H. Klender
Bureau of Land and Waste Management
South Carolina Department
of Health and Environmental Control
2600 Bull Street
Columbia, SC 29201-1708

Re: Kings Acres Subdivision Phase III Report/Phase IV Workplan
Exide Battery, Greenville County

Dear Mr. Klender:

Exide Corporation has received a copy of your May 28, 1997 letter to Ms. Kathy Webb of The Fletcher Group in which the South Carolina Department of Health and Environmental Control (the "Department") requests that Exide add sample locations to the proposed Off-Site Soil Investigation Phase IV Workplan submitted to the Department May 7, 1997. In this letter the Department also states that delineation of soil lead levels needs to be defined at "the EPA cleanup level of 400 mg/kg." We again request that the Department send all such correspondence directly to me at Exide, and not to Ms. Webb.

Throughout the course of the Off-Site Soil Investigation in the Kings Acres Subdivision (the "Investigation"), Exide has submitted numerous work plans that proposed delineation of soil lead levels defined at 500 mg/kg. The Department approved those plans and Exide has conducted the Investigation accordingly. Exide is confident that its proposal, as originally submitted, is adequate to delineate soil lead levels at the target concentration of 500 mg/kg that has been used throughout the Investigation. Exide is prepared to proceed with the Phase IV sampling as proposed on May 7, 1997. However, to do so requires that the Department approve our workplan.

Exide is puzzled and concerned about the Department's change in position regarding the target concentration at this late date in the process of conducting the Investigation. Furthermore, we respectfully disagree that any level of lead concentration in soil has been established as an appropriate and necessary cleanup level in the Kings Acres Subdivision. Exide believes that the additional samples requested by the Department result from the Department's change in position regarding the target concentration. We currently believe that the Department's new target level is not appropriate and that the additional samples are unnecessary.

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GREER EXID

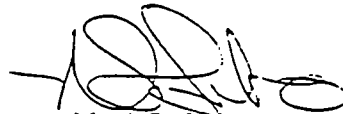
Spring Valley Road & Montrose Avenue Reading, PA 19605 610/921-4077 FAX 610/921-4102

101440

In order that Exide might better understand the Department's position in this matter, we request that the Department provide to Exide the source of the recommendation from the Environmental Protection Agency Region IV that the new appropriate cleanup level is 400 mg/kg. This is particularly important since EPA recently performed a soil remediation in another nearby residential area and used a cleanup level other than 400 mg/kg. In addition, we request any other documents or information the Department has used to provide the basis for a new target concentration of lead in soil for the Investigation. ~~✓~~?

Your prompt response with the requested information will be appreciated so that this matter might be resolved in a timely manner. If you have any questions regarding our request, please contact me directly.

Very truly yours,



Neal S. Lebo
Manager
Environmental Operations

cc: Kathy Webb, The Fletcher Group

COPY: BILL COATES
CARL HOWELL
MATT LOVE
DAVID RIFKIND



2600 Bull Street
Columbia, SC 29201-1708

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Brian K. Smith

Rodney L. Grandy

CERTIFIED MAIL

July 1, 1997

Mr. Neal S. Lebo
Exide Corporation
Post Office Box 13995
Reading, PA 19612-3995

RE: Exide Battery Site/Westgate Trailer Park
Greenville County, South Carolina

Dear Mr. Lebo:

The Department has received your June 10, 1997 letter requesting additional information concerning the need for the Remediation Plan (Plan) for Westgate Trailer Park (Westgate) and an extension for submittal of the Plan. The Department does not believe that the requested information should have an impact on the development of the required Plan. Therefore, the Department will not grant the requested extension, but will extend the deadline for submittal of the Plan until July 11, 1997.

The Department has determined that additional remediation in Westgate is necessary based on blood-lead testing and soil analytical results which indicate that much of the soil in Westgate is contaminated with lead at concentrations exceeding an acceptable cleanup goal of 400 parts per million (ppm). The Department's Division of Health hazard Evaluation, in consultation with the Agency for Toxic Substances and Disease registry, has considered current land use and demographics at Westgate and has determined that 400 ppm is the appropriate cleanup goal for Westgate. Your request for blood-lead testing results has been forwarded to Dr. Robert Marino of the Division of Health Hazard Evaluation. Exide has been identified as a responsible party for Westgate based on historical data which indicates that Exide's plant adjacent to Westgate has released lead into the environment at and near the plant.

Please submit the requested Plan on or before July 11, 1997. If Exide does not submit the Plan or is unwilling to implement the approved Plan, the Department may refer the site for appropriate enforcement action or conduct a State-financed response action and pursue cost recovery against Exide.

Post-it® Fax Note	7671	Date	7/1	# of pages	2
To	Neal Lebo	From	Gary Stewart		
Co./Dept	Exide Corp	Co.	SC DHEC		
Phone #		Phone #	(803) 896-4054		
Fax #	(610) 921-4102	Fax #	(803) 896-4222		

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

0019821

GREER EXIDE

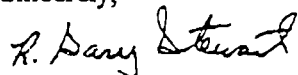
Mr. Neal Lebo

July 1, 1997

Page 2

If you have any questions, please feel free to contact me at (803) 896-4054, or the State Project Manager, Mike Klender, at (803) 896-4073.

Sincerely,



R. Gary Stewart, P.E., Manager
Site Engineering Section
Bureau of Land and Waste Management

cc: Dr. Robert Marino
Mike Klender
Bill Galardi
Doug Johns

TOTAL P.02

0019822

GREER EXIDE

EXIDE CORPORATION

NEAL S. LERO

Dial Direct: (610) 921-4040

E-mail: nleboexide@aol.com

VIA AIRBORNE EXPRESS

July 15, 1997

RECEIVED

JUL 17 1997

Env. Resources

Mr. R. Gary Stewart
Manager, Site Engineering Section
South Carolina Department of
Health and Environmental Control
2600 Bull Street
Columbia, SC 29201-1708

Re: Westgate Trailer Park
Exide Battery, Greenville County

Dear Mr. Stewart:

On June 10, 1997, Exide Corporation requested that the South Carolina Department of Health and Environmental Control (the "Department") provide the information underlying the Department's conclusions: (1) that additional remediation is required at Westgate Trailer Park, and (2) that the necessary and appropriate cleanup goal is 400 mg/kg. Exide requested that information to better understand the Department's conclusions and rationale before preparing the Remediation Plan the Department requested. Exide then received the Department's July 1, 1997 reply. Exide was disappointed with the Department's response that the information requested by Exide should have no impact on development of the Remediation Plan.

The Department's July 1 letter required Exide to submit the Remediation Plan by July 11, 1997. On July 10, 1997, I contacted you via voice mail message requesting additional time for submittal of the Remediation Plan due to unforeseen scheduling conflicts. On July 11, 1997, I received a message from Michael Klender of the Department informing that you had extended the submittal date to July 16, 1997. Exide appreciates your understanding with regard to our scheduling conflicts.

Exide respectfully disagrees that the requested information does not impact development of an appropriate Remediation Plan. A cleanup level is a key element to any remediation plan. While the Department has stated that the cleanup level should be based on an EPA Region IV cleanup goal of 400 mg/kg total lead, Exide is unaware of any recommendation by the EPA Region IV that sets 400 mg/kg total lead as the cleanup goal for Westgate Trailer Park. Such a cleanup goal is inconsistent with recent action taken by EPA Region IV at the site. As you know, EPA used a higher cleanup level. Furthermore, Exide is aware of other similar sites where the level of lead in soil allowable to protect human health and the environment has scientifically been determined at levels well above 400 mg/kg. Therefore, without more information, Exide can not agree with the Department's conclusion that additional remediation is required at Westgate Trailer Park to a cleanup goal of 400 mg/kg.

Exide did not want to waste valuable resources developing a Remediation Plan with an arbitrary and capricious cleanup goal level. By requesting the supporting information, Exide believed it could then enter into discussions with the Department that would result in the proper identification and scientifically justifiable development of appropriate and necessary further action, if any, in the Westgate Trailer Park. Instead the Department has chosen to mention possible enforcement action if Exide does not submit the Remediation Plan as demanded, indicating to us that the Department does not wish to engage in discussions to justify its position in this matter. Accordingly, Exide felt it had no choice but to prepare and submit the enclosed Remediation Plan with the arbitrary and capricious cleanup level of 400 mg/kg total lead.

By submitting this Remediation Plan Exide is not agreeing to implement the plan with a cleanup goal level of 400 mg/kg or any other level. Exide believes, and respectfully submits, that the Department needs to reconsider its position and allow Exide and the Department to have meaningful discussions that will result in the proper identification and justification of appropriate and necessary further action, if any, in the Westgate Trailer Park.

Should you have any questions with regard to this submittal, or if you wish to set up a meeting to begin further discussion, please contact me.

Very truly yours,



Neal S. Lebo
Manager
Environmental Operations

Enclosure



2600 Bull Street
Columbia, SC 29201-1708

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Cyndi C. Mosteller

Brian K. Smith

Rodney L. Grandy

August 13, 1997

Mr. Neal S. Lebo
Exide Corporation
Post Office Box 13995
Reading, PA 19612-3995

RE: Remediation Plan - Westgate Trailer Park
Exide Battery
Greenville County
SCD 042 633 859

Dear Mr. Lebo:

The above referenced report has been received and reviewed by the Department. Comments resulting from the review are as follows:

1. The foot notes throughout the report are incorrect. The State has provided Exide with justification for the 400 mg/kg cleanup level in Gary Stewart's letter dated July 1, 1997.
2. The depth of the soil removal should be at least 6 inches. No data has been presented on the lead concentration from 3 to 9 inches. Soils should be excavated as close to permanent structures.
3. Additional proposed surface soil sample locations need to be added between trailers 46 and 47, 47 and 48, 48 and 49, 49 and 50, 50 and 51, and 23 and 15.
4. Page 5, second paragraph; The air data is not conclusive for the entire operation of the facility. Additionally, air monitoring data only indicates air emissions into the air. No data has been presented on the potential outfall of the lead particles and the accumulation of lead over a period of time. The last sentence of this paragraph needs to be reworded or removed. Exide has conducted all possible investigation options to identify the source of the lead on Westgate Trailer Park.

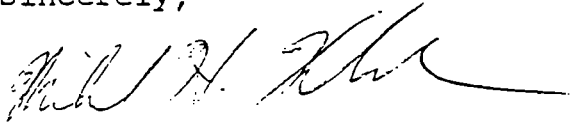
0019833

GREER EXIDE

Page 2
Mr. Lebo
August 13, 1997

If you have any questions concerning our review of the referenced document or any other related issues feel free to contact Mike Klender at (803) 896-4073.

Sincerely,



Michael H. Klender, P.E.
Project Manager
Division of Site Assessment and Remediation
Bureau of Land and Waste Management

exide24.MHK

pc: Kathy Webb - The Fletcher Group
Douglas C. Johns, Director - Appalachia II
Pam Baker, Enforcement



2600 Bull Street
Columbia, SC 29201-1708

COMMISSIONER:
Douglas E. Bryant

CERTIFIED MAIL

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April 14, 1998

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Mark B. Kent

Cyndi C. Mosteller

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Rodney L. Grandy

Mr. Neil S. Lebo
Exide Corporation
Post Office Box 13995
Reading, PA 19612-3995

RE: Exide Battery Site/Westgate Trailer Park
Greenville County, South Carolina

Dear Mr. Lebo:

The Department has determined that Exide Corporation should implement a remedial action on surface soils in the Westgate Trailer Park (Westgate) which are contaminated with lead in excess of 400 parts per million (ppm). This determination, made in consultation with EPA Region 4, is based on two key factors. First, 1996 surface soil sampling conducted by The Fletcher Group for Exide Corporation, as well as other sampling data, indicate the presence of lead contamination in excess of 400 ppm in large delineated areas of the trailer park. Secondly, site specific data indicates the presence of a continuing exposure pathway as evident by elevated blood lead levels in residents several years after the 1995 EPA removal action.

The Department's Division of Health Hazard Evaluation, under the supervision of Dr. Robert Marino, has monitored post-1995-removal blood lead levels of residents living in Westgate. The results of this monitoring have revealed the presence of elevated lead blood levels in some subjects. These findings, coupled with the surface soil sampling results, indicate that the 1995 removal grid may have missed some spots of lead contamination. In addition, since the 1995 removal, both state and EPA clean-up standards/action levels for lead in residential surface soils have been lowered to 400 ppm. This clean-up goal is based on EPA's current preliminary remediation goal for residential exposure. In some circumstances, site-specific data such as lead bioavailability and other sources could be used to justify setting a higher clean-up goal. However, since an exposure route still exists and there is a documented history of elevated blood lead levels in Westgate residents, there is no justification at this site. Therefore, Exide Corporation must conduct the clean-up to a level of 400 ppm total lead.

0019866

GREER EXID:

November 6, 1998

Mr. R. Scott Wilson
South Carolina Department of
Health and Environmental Control
2600 Bull Street
Columbia, SC 29201-1708

RECEIVED

NOV 9 1998

**DIVISION OF SITE
ASSESSMENT & REMEDIATION**

Re: Off-site Soil Focused Investigation/Study
Kings Acres Subdivision
Exide Corporation, Greer, South Carolina

Dear Mr. Wilson:

Exide Corporation has received a copy of your October 23, 1998, letter to Kathy Webb of the Fletcher Group regarding the Phase IV Report/Phase V Workplan for the Kings Acres Subdivision located near the Exide property in Greer, South Carolina. In this letter the South Carolina Department of Health and Environmental Control (the "Department") suggests that the Off-site Soil Focused Investigation/Study now proceed, expanded to delineate lead in the soil to a level of 400 ppm instead of the 500 ppm level used in all prior phases of this project.

As you know, the issue of an appropriate action level for lead in soil has not yet been resolved in the matter of the Westgate Trailer Park, also located near the Exide Greer property. Exide is pursuing a dialogue with the Department and EPA Region IV in attempt to resolve this issue in a timely manner. However, until this fundamental issue is resolved, it would serve no purpose to proceed with an expanded study in Kings Acres. Once the issue is resolved, Exide will proceed immediately to implement Phase V of the investigation and develop a remediation plan for Kings Acres utilizing appropriate screening and clean-up levels.

Very truly yours,



Neal S. Lebo

Director

Environmental Operations

cc: Ari Levine, Exide
Kathy Webb, Fletcher Group

645 Penn Street Reading, PA 19601
P.O. Box 14205 Reading, PA 19612-4205
610/378-0500
www.exideworld.com/power

EXIDE CORPORATION

ARI D. LEVINE
*Assistant General Counsel &
Director, Regulatory Affairs*
(610) 378-0852
Fax (610) 371-0463
Email: Alcvin@exideworld.com

May 28, 1999

**BY FAX AND BY
OVERNIGHT MAIL**

Reuben T. Bussey, Esquire
Assistant Regional Counsel
U. S. Environmental Protection Agency
61 Forsyth Street
Atlanta, GA 30303

Re: Westgate Mobil Home Park
Greer, Greenville County, South Carolina

Dear Reuben:

We recently sent under separate cover a notebook containing the materials which contain the communications between Exide and the South Carolina Department of Health and Environmental Control ("DHEC") concerning the above site. This letter is intended to summarize the key points in that saga, as per our telephone conversation of May 24, 1999.

When one reviews the material in the notebook, one thing becomes crystal clear. Whatever DHEC has told EPA to the contrary, Exide never refused to go forward with this project. To the contrary, Exide repeatedly requested meetings with DHEC specifically to discuss how to move forward. Rather than respond, or even challenge Exide to confirm its commitments, DHEC simply decided to bring NEIC into the picture. This is particularly clear from the first few documents in the notebook.

On or about January 31, 1997, Exide sent DHEC a Remedial Investigation Report ("RIR"), summarizing our investigation of the Westgate site. See Notebook, Tab 2. The RIR does state that the consultant was unable to establish a direct connection between lead-in-soil results and Exide's operations, largely because of the random distribution noted by EPA staff during our recent meeting. However, the cover letter with which that report was sent states in pertinent part:

645 Penn Street Reading, PA 19601
P.O. Box 14205 Reading, PA 19612-4205
610/378-0500
www.exideworld.com/power

Exide respectfully suggests that, following the Department's review of the Remedial Investigation Report, the Department meet with Exide for the purpose of developing goals for any future activity in this matter.

See Tab 2, First Page (emphasis supplied). It is impossible to conclude from these facts that Exide was doing anything other than showing its willingness to move forward with DHEC.

DHEC replied in a two-page letter, dated March 28, 1997. See Notebook, Tab 3. That letter simply states three specific, technical comments affecting minor points in the RIR. (It also references a screening level of "500 mg/kg of lead". See Notebook, Tab 3, Page 1, ¶ 2.) DHEC does not even mention the random distribution of data, nor does it respond to Exide's request for a meeting.

Instead, DHEC appears to have decided to refer the matter to NEIC there and then, without any notice to Exide. Indeed, the very next piece of correspondence is a May 2, 1997 letter from Mr. Klender at DHEC to Mr. Lebo. See Notebook, Tab 4. That letter simply states that DHEC and EPA would begin sampling on May 12, 1997. We now know that this was the beginning of NEIC's involvement.

Despite this, Exide continued to reaffirm its intent and desire to move forward. For example, Neal Lebo wrote Mr. Klender on June 10, 1997, stating in pertinent part:

On June 2, 1997, Exide received your letter of May 22, 1997 [ten days after NEIC began its first sampling event] in which [DHEC] indicates that further remediation of the Westgate Trailer Park is required. Exide intends to fully comply with Consent Order 96-12-HW by submitting a Remediation Plan.

See Notebook, Tab 6 (emphasis supplied) (bracketed text not in original). Even if DHEC had some reason to believe Exide would not proceed with remediation prior to June 10, 1997, it certainly had no basis whatsoever for that belief after it received this letter. Nevertheless, NEIC has continued to do work at the site pursuant to DHEC's original referral.

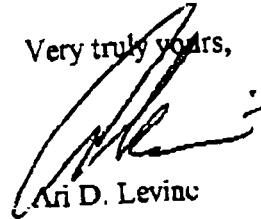
It is evident from the foregoing that DHEC misled EPA if it indicated that Exide had refused to proceed with remediation at the site. Therefore, there was no legitimate reason for the NEIC investigation. We of course recognize that EPA did not know that fact until recently.

We therefore request that EPA reconsider its demand for past costs associated with the NEIC investigation, while reaffirming our willingness to make some payment towards EPA's past costs. We respectfully suggest that EPA look to the State of South Carolina for recovery of the remainder of its costs.

In the meantime, we would also suggest that NFIC cease any and all work which it may still be doing at or in relation to the Westgate Trailer Park site. There certainly is no reason for that work to continue now.

I appreciate your consideration of these matters. If I can provide any further information, or answer any questions from you or from other EPA personnel, please do not hesitate to contact me at your convenience.

Very truly yours,



Ari D. Levine

cc: Mr. Neal S. Lebo



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

JUN 21 1999

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ari D. Levine
Assistant General Counsel &
Director, Regulatory Affairs
645 Penn Street
Reading, PA 19612-4205

SUBJ: Westgate Trailer Park Site
Greer, South Carolina
Final Demand for Payment of
Response Costs

Dear Mr. Levine:

I received your letter of May 28, 1999, suggesting a compromise of EPA past response costs at the Westgate Trailer Park Site.

The essential point of your letter seems to be that Exide Corporation agreed with the State of South Carolina, early on in the Superfund process, to provide cleanup response at the Westgate site. Hence, there was no need for EPA to investigate the source of, or Exide's liability for, lead contamination on the site, and the incurrence of the costs associated with the investigation was also unnecessary. EPA should, therefore, be willing to compromise its costs incurred in the investigation and confirmation of Exide's Greer, South Carolina lead-acid battery manufacturing facility as the source of lead contamination in soils on the adjacent Westgate Trailer Park property. As discussed below, EPA takes a different view of this issue.

On April 9, 1996, Exide entered into a consent order with the South Carolina Department of Health and Environmental Control (DEHEC), agreeing as follows:

If the Department determines that remediation of the Westgate Trailer Park is necessary, Exide shall submit a Remediation Plan for Westgate Trailer Park to address removal and proper disposal of all contaminated soils as deemed necessary by the Department.

In your letter of May 28, 1999, you advise that Exide, in January 1997, delivered to DEHEC Exide's Remedial Investigation Report, summarizing the Company's investigation of the Westgate site. The site investigation report stated that Exide's consultant was unable to establish a direct connection between lead detected in soils at Westgate and Exide's Greer, South Carolina plant operations. The report states:

The Exide air monitoring station located nearest to the trailer park is the # 1 sampler ... This data shows that the measured lead-in-air near the park has been below the National Ambient Air Quality Standard (NAAQS) for lead of 1.5 ug/m3, and has generally decreased over time. This indicates that emissions from the Exide facility have not caused residents of Westgate Trailer Park to be exposed to lead-in-air levels above the NAAQS. The NAAQS defines a level of air quality that is protective of human health and the environment. This lead-in-air data is therefore also an indication that air emissions from the facility did not contribute to soil impacts in the trailer park.

In its letter accompanying the investigation report to DEHEC, Exide requested a meeting with DEHEC to "develop goals for any future activity in this matter (the Westgate site)." This reply falls somewhat short of a resounding assurance of Exide's willingness to proceed with site cleanup, and the claim, made in the site investigation report, that Exide did not contribute to lead contamination in the trailer park was not retracted.

DEHEC delivered a copy of Exide's investigation report to Region 4, expressing concern as to Exide's contentions regarding the lack of evidence of the Company's responsibility for lead contamination in soils at Westgate. Seeking to support the State's enforcement effort, EPA requested, in March 1997, the National Enforcement Investigations Center's assistance in the identifying the source of lead contamination in soils at the trailer park.

Exide, in its June 10, 1997 letter, assured DEHEC of Exide's intention "to fully comply with (the DEHEC consent order) by submitting a Remediation Plan." In addition to other information regarding blood-lead testing and the EPA-recommended 400 ppm cleanup level for lead contaminated soils, Exide also requested "all information, reports or other documents which support the conclusion that Exide is responsible for the lead concentrations found in the soils to be remediated."

In July 1997, pursuant to the 1996 consent order with the State, Exide presented a remediation plan, for the trailer park, which states (p. 5):

A review of potential source mechanisms, air emissions and surface water runoff, was conducted as part of the RI. Available air monitoring data does not indicate that emissions from the Exide facility contributed to soil impacts in the trailer park. No surface water runoff from the Exide facility flows in the direction of the trailer park, therefore, surface runoff is not a possible contributor. Nevertheless, SC DEHEC has requested that Exide provide this Remediation Plan for the removal of soil with concentrations greater than 400 ppm.

Again, Exide's expression of its willingness to proceed with cleanup at the trailer park appears lukewarm. Exide continues to complain that lead in soils at Westgate did not originate from the Exide plant, yet DEHEC persists in its demands for a cleanup plan from Exide. Exide issued this complaint in both the site investigation report and in the remediation plan.

By letter of August 13, 1997, DEHEC addressed Exide's air data and conclusions regarding the impact of air emissions on trailer park soils. DEHEC commented that "No data has been presented (by Exide) on the potential outfall of the lead particles and the accumulation of lead over a period of time."

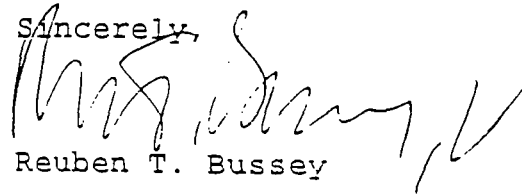
DEHEC again wrote Exide on April 14, 1998, notifying Exide of DEHEC's determination that cleanup to 400 ppm of lead-contaminated surface soils in the trailer park was required of Exide. DEHEC's decision was based on sampling data indicating the presence of lead-in-soil contamination in excess of 400 ppm and the continuing presence on the site of an exposure pathway evidenced by "elevated blood lead levels in residents several years after the 1995 EPA removal action." Due to the lack of soil data in the "3 to 9 inch zone," DEHEC required a soil removal to a minimum of six inches instead of the three-inch depth proposed in Exide's July 1997 Remediation Plan.

By Notice of Violation dated March 17, 1999, DEHEC notified Exide of Exide's violation of the April 1996 consent order "by not submitting a Remediation Plan for the Westgate Trailer Park ..."

On December 24, 1999, EPA forwarded to Exide notice of potential liability and demand for payment of EPA past costs incurred at Westgate. The sum demanded was \$306,569.02. Exide

resolve its liability for contamination on this site and EPA will proceed accordingly.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Reuben T. Bussey', with a large, stylized flourish at the end.

Reuben T. Bussey

cc: Billy Bright
Program Services Branch
Waste Management Division

LAW OFFICES

Poliakoff, Poole & Associates

ATTORNEYS AT LAW

215 MAGNOLIA STREET

P.O. BOX 1571

Spartanburg, South Carolina 29304-1571

TELEPHONE 864/582-5472

864/582-8101

TELEFAX 864/582-7280

9-3-99

GARY W. POLIAKOFF, P.A.

AttyPoliko@aol.com

J. ROGER POOLE

rogerp@teleplex.net

RAYMOND P. MULLMAN JR.

RMullmanjr@aol.com

BERNARD B. POLIAKOFF

864/582

J. MANNING POLIAKOFF

864/582

MATTHEW POLIAKOFF

864/582

Mr. Doug Bryant, Commissioner
S. C. Dept. of Health & Environmental Control
2600 Bull Street
Columbia, SC 29201

RE. Exide Corporation, Westgate Trailer Park and King Acres Subdivision
Greer, South Carolina (Greenville County)

Dear Mr. Bryant:

We represent various persons who reside in Westgate Trailer Park and in King Acres Subdivision, both adjacent to the former Exide lead acid battery plant. We are extremely concerned about the continued resistance of Exide to properly remediate Westgate Trailer Park, and of the failure to commence any remediation whatsoever in King Acres. Our review indicates two decades of willful abuse by Exide and its predecessor, and what appears to be two decades of neglect by DHEC.

We ask that the Department respond to the issues raised in this letter, and inform us as to what course of action will be taken from this point.

I. Present Situation:

On June 24, 1999, DHEC representatives conducted a meeting to inform the Westgate community about the free lead screening on July 6, 1999 and the soil remediation to begin on July 12, 1999. At that time, Exide refused to clean up the contaminated soil pursuant to the standards set out by US EPA and SC DHEC. DHEC had planned on cleaning up the area and pursuing Exide for clean up costs. To date, Exide continues to resist, and little or nothing has been done to protect the children of Westgate Trailer Park and King Acres Subdivision, many of whom are suffering from lead toxicity.

II. History of DHEC's Involvement with Exide:

A. 1976 to 1987 (Exide's Predecessor General Battery Corporation):

1. On August 12, 1976, a DHEC memo stated that:

The information on file here shows some exhausts to the ambient air. If there are any residences in the immediate vicinity, perhaps consideration should be given to sampling off of the plant property.

2. On August 16, 1976, a DHEC memo stated: "We have become concerned regarding lead intoxication at the General Battery Corporation."

3. On July 23, 1982, a DHEC memo stated that: "This facility has a long history which is due to the discovery of contamination in a waste treatment lagoon and subsequent cleanup of the site"

4. On October 25, 1982, a General Battery Corporation (GBC) memo noted the following:

Extremely high lead levels (62,000-164,000 ppm Pb) were monitored in an area north of the water treatment plant which is used for storage of various lead-containing materials such as baghouse dust. Spills in this area and subsequent lead transport via stormwater runoff have caused elevated lead levels to be monitored in stormwater runoff trenches to the back side of the facility. Transport of lead in this manner is no doubt responsible for elevated lead levels in the headwaters area of the creek behind the plant.

5. On September 20, 1983, GBC correspondence indicates that GBC purchased Lots Nos. 36, 47, 48, 49, 63, and 64 and were attempting to get easements for Lots Nos. 37, 38, 39, 40, 41, 42, 44, 45, 46, 50, 51, 52, 53, and 54. All of these lots are in King Acres Subdivision.

Upon information and belief, these lots were purchased from Farroll Campbell. Mr. Campbell initiated a lawsuit against GBC for contamination of his property.

6. On February 2, 1984, a GBC memo stated that "several items represent significant potential contributions to the lead content" The plant listed the following:

- (a) visible emissions from the Hoffman Central Vacuum;
- (b) visible emissions from the AAF Rotoclone;
- (c) collector caked with material from past emissions;
- (d) shaker motor operator hut bags do not shake;
- (e) [baghouse] bags are packed with [lead] oxide;
- (f) accumulation of dust around debris barrels causing lead contaminated run-off during rain;

- (g) pallets of contaminated 5-gallon metal cans are stood outside causing contamination of run-off from yard area; and,
- (h) old ductwork is stored on the grass outside causing possible soil contamination.

7. On March 13, 1984, a DHEC memo states that the lot of William E. Poteat (203 Bent Creek Drive) was contaminated with lead.

Throughout 1986, Mr. C. O. Hight (Lot 53) and Mr. J. W. Miller (Lot 52) repeatedly complained to GBC and DHEC about the run-off from the plant, the lead dust emanating from the plant and the contamination of their property. Nothing was done by either GBC or DHEC.

8. On July 17, 1987, a DHEC memo states:

Lead contamination and low pH in Princess Creek and its tributaries have been documented by various SCDHEC and consulting company reports to be the result of contaminated base flow (the contribution of groundwater to a stream) emanating from GBC property.

WHY WAS THERE VIRTUALLY NO ENFORCEMENT BY DHEC, AND NO ATTEMPT TO REMEDIATE DURING THE ABOVE DECADE?

B. 1987 to the Present:

(Note: Exide had purchased GBC and the Greer Plant)

1. On September 21, 1987, an Exide memo stated:

Please be reminded that this collector is currently operated beyond design capacity, since the Lear Siegler collector has not been replaced.¹

Per our discussions, we both agree that trying to stack test an individual piece of equipment is not possible and results could be detrimental to the plant meeting permit requirements, if alternate methods were chosen without reviewing the positive and negative impacts of the final result.

WHY DID DHEC FAIL TO REQUIRE REPLACEMENT OF THIS NECESSARY DUST COLLECTOR?

WHY WERE THE OTHER COLLECTORS ALL OWNED TO OPERATE BEYOND CAPACITY?

¹The Lear Siegler Dust Collector suffered a fire on February 14, 1986 and was never replaced.

2. On December 15, 1987, Exide submitted a Site Assessment-Remedial Action Plan for the clean-up of the contaminated soil on site pursuant to a June 1986 Administrative Consent Order 86-36-W.

WHY DID IT TAKE 18 MONTHS FOR EXIDE TO SUBMIT THIS PLAN? WHY WASN'T WESTGATE TRAILER PARK AND KING ACRES SUBDIVISION INCLUDED, SINCE THERE WAS AMPLE EVIDENCE OF CONTAMINATION?

3. On September 29, 1988, Exide submitted Revision 2 of the Site Assessment-Remedial Action Plan.

WHY DID IT TAKE MORE THAN 9 MONTHS FOR THIS "REVISION"?

4. On January 16, 1989, DHEC found that six of the nine recovery wells were found to be either not in operation, vandalized, or corroded with salt.

WHY WAS NO ACTION TAKEN?

5. On April 7, 1989, Exide correspondence to DHEC indicates "Exide Corporation's participation in a local lead screening program in the Greer area."

**WHATEVER HAPPENED TO THIS PROGRAM?
WHY WASN'T LEAD SCREENING CONDUCTED IN 1989?
WAS EXIDE'S CLAIM OF LEAD SCREENING FALSE?**

6. On May 10, 1989, a DHEC final report concludes:

The discovery of elevated lead and various plasticizers, such as the Phthalates, indicate past and/or present contamination. This contamination could be the consequence of improper handling, accidental spills, and/or leaching of process chemicals. Therefore, further investigations should confirm the magnitude of the contamination.

WHY WERE THERE NO FURTHER INVESTIGATIONS TO CONFIRM THE MAGNITUDE OF THE CONTAMINATION?

7. On July 17, 1989, Dr. Robert Marino wrote Dr. Eugene Shippen (medical consultant of Exide) regarding "Blood lead testing for Greer residents residing near the Exide Battery Plant." Dr. Marino stated that "this project cannot be supported by the agency's lead poisoning prevention program." Dr. Marino further wrote:

We believe public participation in this study would be unlikely without some efforts to inform local residents of this situation and the availability of lead screening. This would of course involve the issue of environmental contamination from the Exide

plant. Failure to provide this information would certainly generate much speculation, especially from the local media.

In response to the above, Dr. Shippen wrote a note to his superior John Baranski (Director of Environmental Resources) on the top of the document, stating "LET IT DIE!" This typifies Exide's attitude. But DHEC apparently encouraged that attitude by failing to further pursue the matter.

WHAT HAPPENED TO NOTIFYING THE PUBLIC?

WHY WAS DHEC CONCERNED ABOUT MEDIA COVERAGE?

WHY DIDN'T THE RESIDENTS GET THEIR BLOOD TESTED AT THAT TIME?

DID THE COST OF THE PROJECT EXCEED THE IMPORTANCE OF PROTECTING THE CHILDREN LIVING AROUND THE PLANT?

WHY WASN'T THE PUBLIC LEAD AWARENESS PROGRAM PART OF THE ADMINISTRATIVE ORDER?

8. On September 12, 1989, Exide correspondence to DHEC requests approval of the Site Assessment-Remedial Action Plan that was submitted a year earlier pursuant to a June 1986 Administrative Order.

WHY DID IT TAKE DHEC MORE THAN A YEAR TO APPROVE EXIDE'S PLAN?

WHY DID IT TAKE MORE THAN THREE YEARS FOR THE ADMINISTRATIVE ORDER TO BE FULFILLED?

WHY WASN'T THE PUBLIC LEAD AWARENESS PROGRAM PART OF THE ADMINISTRATIVE ORDER?

9. On October 12, 1989, a DHEC memo discusses a public lead awareness program for Greer, and off-site sampling of King Acres Subdivision.

On October 30, 1989, a DHEC memo states:

A health assessment study would identify all sources of potential lead contamination in the area, establish routes of exposure, identify sensitive members of the population and determine necessary precautions for preventing excessive contaminant exposure, particularly during remediation.

WHY WASN'T THE LEAD AWARENESS PROGRAM PURSUED?

WHY DID IT TAKE TWO YEARS FOR THE PRELIMINARY DRAFT HEALTH ASSESSMENT?

10. On September 21, 1990, after repeated and numerous complaints from Mr. Hight and Mr. Miller, Exide sampled soil on their property.

WAS DHEC AWARE OF THIS?

**WHY WASN'T ALL OF KINGS ACRES SUBDIVISION SAMPLED?
WHY DIDN'T DHEC INSPECT/CONTROL THE SAMPLING TECHNIQUE?**

11. On November 12, 1990, a DHEC memo indicates a site visit "to identify public concerns." During the visit several residents "expressed their concerns about probable air and water pollution from the plant." The memo further states:

They complained about the surface water run-off from the plant onto adjacent private properties, heavy dust and strong odors emitted from the plant, and suspected that cancers (lung and blood) and some other diseases (such as stomach problems and kidney stones) occurred in the neighborhood during the past 10 years

Elevated lead and chromium have been detected in surface and groundwater samples from the wells at and around the site Additional assessment is needed to identify the source of chromium, the extent, severity and rate of migration of both contaminants in groundwater, and their environmental and human health impact.

12. On December 19, 1990, a DHEC memo states the following:

In early July, I received a telephone call from Mrs. Pitts about lead contamination of her property from Exide.

In October, I received a telephone call from Mr. Byars, another neighbor of Exide. Mr. Byars was worried about air emissions coming from Exide and Exide's surface water runoff that flowed onto his residential property and another vacant lot that bordered Exide.

13. On May 23, 1991, Bobby Byars complained to DHEC about strong odors coming from Exide.

**WHY WAS THERE NO INVESTIGATION OF THESE PROBLEMS?
WHEN WERE SCRUBBERS CONSTRUCTED OR PERMITTED?
WHY WASN'T QUALITY ASSURANCE DONE ON THE SCRUBBERS?
HOW WERE AIR EMISSIONS TESTED OR REGULATED?
WHY WAS THERE SUCH A LACK OF OVERSIGHT OF THE AIR EMISSIONS?**

14. On May 17, 1991, a preliminary draft copy of the Health Assessment was finally submitted. The report stated the following:

Demographic data indicate the presence of several high-risk groups including adult males, infants, and persons likely to carry the genes for either Glucose-6-Phosphate Dehydrogenase (G6PD) deficiency or Sickle-Cell Anemia. Health outcome data are not available. Therefore, this site is of potential health concern.

This document gives a brief history of the plant site. However, much of the information provided to DHEC by Exide was either misleading or incorrect. The report further states:

SC DHEC staff interviewed a resident living immediately northwest of the plant. He reports the episodic occurrence of a smell "like battery acid." It "is strong enough that it will knock you down." He reports that various visitors to his property have commented on the smell. He first notices a sensation on his tongue followed by a sensation of odor and a tickling on the roof of his mouth.

WHY WAS NOTHING DONE IN 1991 TO PROTECT THE HIGH RISK GROUPS?

WHY DIDN'T DHEC TEST THE SCRUBBERS?

WHY DIDN'T DHEC INSPECT THE BAGHOUSES?

WHY WASN'T THERE A LEAD OXIDE TRANSFER SYSTEM IN PLACE?

WHY DIDN'T DHEC DECREASE THE PERMITTED NUMBER OF BATTERIES ABLE TO BE PRODUCED?

HOW DOES DHEC KNOW HOW MANY BATTERIES ARE BEING PRODUCED EACH DAY, WEEK, MONTH, QUARTER, OR YEAR?

IS THERE ANY AIR MODELING DATA BEFORE 1992?

The Health Assessment further reports that:

These people related an incident when a white powder covered the leaves of their plants for a day before rain washed the powder away. They related that several people in the neighborhood had developed cancer; they claimed that three individuals had lung cancer; one individual had bladder cancer, and another had cancer, but the type of cancer was unknown to them. One person related that his health has "been going downhill" over the past years and that he now uses oxygen at night.

The Health Assessment emphasizes that "off-site air monitoring data are not available."

DID DHEC REQUEST THAT EXIDE BEGIN TO MONITOR AIR DATA?

WHY WEREN'T AIR MONITORS PLACED IN WESTGATE TRAILER PARK?

The Health Assessment discusses other possible sources but concludes that:

The spatial extent of contamination and the rapid decline in the lead concentration of off-site soil with increasing distance from the site, however, indicate that GBC is the primary source of the excess lead in soil.

The Health Assessment also discusses the level of lead in soil deemed safe. "However, because of the evidence linking even lower lead exposures to health effects in children, the EPA is expected to lower their soil limit to 250 to 500 mg/kg in the near future.

**WHY DIDN'T DHEC REQUIRE REMEDIATION IN 1991?
WHY DID IT TAKE SO LONG FOR EXIDE TO AGREE TO 400 ppm?**

Finally, the Health Assessment concludes the following:

Past industrial practices at the GBC/Exide plant in Greer, SC have led to contamination of groundwater, surface water, soil and air in the vicinity of the plant.

15. On June 21, 1991, Exide wrote DHEC proposing "to raise all stacks to 50' and reduce the emissions to the NSPS for lead of 0.00044 gr/dscf.

**HOW DOES RAISING THE STACKS LOWER THE EMISSIONS?
WHY DID DHEC ALLOW EXIDE TO DO THIS?
WHY DIDN'T DHEC MAKE EXIDE PRODUCE LESS BATTERIES THEREBY
REDUCING EMISSIONS?**

In June 1991 and December 1991, subsequent Health Assessment drafts were conducted by DHEC.

In the Health Assessment, DHEC stated: chronic lead toxicity is associated with irreversible central and peripheral nervous system damage in children and it is therefore possible that young members of a sensitive populations may be exposed to lead in excess of CDC, EPA, and ATSDR guidelines.

**WHY WAS THE LEAD EXPOSURE IN CHILDREN ALLOWED TO CONTINUE SINCE
1991?**

16. On January 18, 1991, Exide illegally transported and dumped 1039 tons of hazardous waste and contaminated soil (7500 ppm) onto 1455 W. Wade Hampton Blvd. Although the FBI and DOT investigated this crime, no indictment or civil penalty was given to Exide.

17. On January 31, 1992, a DHEC memo states that three soil samples were collected from 1 to 3 inches below the surface.

**WHY ONLY 3 SAMPLES?
HOW DID DHEC CHOOSE THE LOCATIONS?
WHY ONLY 1 TO 3 INCHES BELOW THE SURFACE?
WHY WAS THERE NO CRIMINAL PROSECUTION FOR THE ILLEGAL DUMPING?**

18. On March 24, 1992, a DHEC memo states the results of the January soil samples as 270 ppm, 560 ppm, and 800 ppm.

19. In March 1992, DHEC's "Fact Sheet" on Exide stated the following:

Exposure to lead has been associated with a decreased ability to learn in children.

Exposure to lead also has been associated with premature births, low birth weights and increased blood pressure in men. The Exide health assessment classifies the site as a potential health concern"

20. On April 10, 1992, a DHEC memo to a Kings Acre resident (Albert Brockman) states: "Lead contamination of the soils in the Kings Acres subdivision has been related to storm water run-off from Exide Battery Corporation.

**WHY DIDN'T DHEC INVESTIGATE POSSIBLE AIR PATHWAYS AS A CAUSE OF THE CONTAMINATION IN KINGS ACRES AND WESTGATE TRAILER PARK?
WHY WAS THERE NO ENFORCEMENT, AND NO REMEDIATION?**

On May 28, 1992, a DHEC memo states the results of soil samples as 340 ppm, 490 pm, and 780 ppm.

21. On June 9, 1992, Mr. and Mrs. Miller (105 Bent Creek Dr.) initiated a lawsuit against Exide for contamination of their property. Exide purchased the property on August 24, 1993.

22. On December 23, 1992, Mr. C. O. Hight (107 Bent Creek Dr.) initiated a lawsuit against Exide for contamination of his property. Exide purchased the property on August 24, 1993.

From June 1994 to March 1995, the US EPA and SC DHEC initiated a Lead Exposure Study at Westgate Mobile Home Park. The results are as follows:

Blood samples were collected for lead testing from 33 participants during June 12-13, 1994. Nineteen children and one adult were tested for blood lead by the fingerstick method; an additional two children and 11 adults were tested by venipuncture. Fifteen of the 19 children who were tested by the fingerstick method were found to have blood lead levels that exceeded 10 ug/dl.

**WHY DIDN'T ANYONE SUGGEST MOVING THE CHILDREN AWAY FROM THE CONTAMINATED SITE?
WHY WAS EXIDE ALLOWED TO CONTINUE TO POISON CHILDREN IN THE NEIGHBORHOOD?**

The Study goes on to report that:

The [CDC] recommendations are based on a number of epidemiological and experimental studies that identified adverse effects on central nervous system function at blood lead levels well below 25 ug/dl and as low as 10 ug/dl. Children who had mildly elevated blood and dentine lead levels were found to have lower IQ scores, neuropsychological deficits, and impaired classroom performance compared to children with lower lead levels.

Because of their oral tendencies, children who live near sources of lead pollution must be considered to be at double risk of lead exposure; not only will they inhale airborne lead, but in addition they are at risk of ingesting precipitated lead particles from dust and soil.

Although inhalation is generally a minor exposure pathway for individual children, it can be an important pathway of high-dose exposure around point sources, like smelters and battery manufacturing plants.

The report concluded:

there are children living within this trailer park who are being exposed to excess amounts of lead. The neighboring lead battery plant is the most likely source of this lead.

23. On May 3, 1994 and June 3, 1994, Exide wrote DHEC to discuss the Public Lead Awareness Program that was part of the 1988 Site Assessment-Remedial Action Plan. Exide blames DHEC's lack of response and failure to follow-up to Exide's proposed lead awareness programs as the reason why the plan was never done.

WHY WASN'T THE PROGRAM INSTITUTED?

WHY WERE THE CHILDREN NOT REMOVED FROM THE AREA?

WHY WAS EXIDE ALLOWED TO CONTINUE POISONING THE CHILDREN?

24. On June 29, 1994, a total of 55 soil samples were taken from the Westgate Mobile Home Park. The sample results range from 35.2 ppm to 2110 ppm of lead in the soil.

25. In September 1994, the US EPA excavated shallow soil from six areas with lead concentrations greater than 500 ppm in soil. No follow up sampling has been performed since the soil removal.

Because of high levels of lead detected on site, the Westgate Mobile Home site would normally receive a high priority for further Federal Superfund activity.

WHY WASN'T FOLLOW-UP SAMPLING DONE IN THE TRAILER PARK FROM 1994 TO 1997?

26. On October 5, 1994, DHEC wrote Exide requesting a revised Remedial Action Plan to include soil sampling off-site of Exide's property.

WHY DID DHEC ALLOW EXIDE TO CONDUCT THE SOIL SAMPLING?

WAS DHEC CONCERNED ABOUT THE INTEGRITY OF THE SAMPLE RESULTS?

WHY DIDN'T DHEC SAMPLE KING ACRES AND WESTGATE MOBILE HOME PARK?

27. On October 12, 1994, EPA submitted the inspection report for the March 23, 1994 overview inspection of Exide Corporation. The report states:

The facility appeared not to be in compliance with all applicable air emission regulations at the time of this inspection. The latest existing operating permit expired in 1992.

**HOW DID EXIDE OPERATE WITHOUT A PERMIT FOR TWO YEARS?
WHY WAS THERE NO ENFORCEMENT?**

28. On October 25, 1994, Exide retained David Sullivan, an expert in air modeling and EPA protocol. Mr. Sullivan reported the following:

I believe that my most significant observation is that there appears to be a major disconnect between the modeling (based on considering emissions from five stacks) and the observed lead concentrations in the ambient air.

My hypothesis is that the contribution from fugitive sources may be substantially greater than the stack emissions that were modeled.

I have to anticipate that the state will identify Exide as the major contributor to high lead levels at the trailer park.

**DID EXIDE INFORM DHEC OF THIS CONSULTANT'S REPORT?
WHY WAS NO ACTION TAKEN TO CORRECT THESE PROBLEMS?**

29. On November 7, 1994, a DHEC memo states:

As early as October 1990, DHEC inspector Phil Charping reported that no boiler was in operation at this facility. There has not been one installed since and there was no boiler present during my inspection on 10/13/94.

**HOW COULD EXIDE OPERATE WITHOUT A BOILER?
HOW DOES THE LACK OF A BOILER AFFECT AIR EMISSIONS?**

30. During the week of January 16, 1995, DHEC sent a task force to inspect the Exide facility. The following are excerpts from that inspection:

I noted many areas that were potential spots of fugitive PbO₂ [lead] dust emissions. The screw augers in the Oxide Mill area had leaks. Dust on the floor in the Oxide Mill was being tracked out to the outside.

Exide received 11,681,183 pounds of PbO₂ from O&C Inc., Hammond Lead, and Power Labs. A total of 112 deliveries were made during 1994. Of these 112 deliveries, 41 were made on a sampling day. An analysis of these deliveries in conjunction with sampling results and wind speed/direction obtained . . . shows a very high correlation between the Lead Oxide Transfer Systems² delivery days and high lead emission levels picked up around this facility by the various sampling monitors on these same delivery days.

Other concerns noted were as follows:

- (a) door left open;
- (b) numerous leaks of lead oxide;
- (c) numerous spills of sulphuric acid;
- (d) PbO₂ dust everywhere;
- (e) PbO₂ paste coated on all the equipment;
- (f) fugitive emissions noted throughout the plant;
- (g) strong VOC odor that was vented out uncontrolled;
- (h) improperly stacked grids with dried PbO₂ paste;
- (i) no liquid in the scrubbers;
(It was also determined that there had been no liquid in these wet scrubbers for 2 to 3 years, thereby resulting in constant unfiltered emissions.)
- (j) truck traffic scattering lead contaminated dust;
- (k) piles of lead dust on the floors;
- (l) burners emitting black smoke inside the building
- (m) the scrubbers were taken off line;
- (n) strong acid fumes throughout the plant;
- (o) particulate sampling network sampler's time indicators were 12 hours off;
- (p) air monitors are not sited in accordance with EPA/SC DHEC citing criteria; and,
- (q) several openings in the oxide mill room where fugitive emissions could escape.

WHY WAS EXIDE ALLOWED TO HAVE NON-FUNCTIONING AIR SCRUBBERS FOR 2-3 YEARS?

HOW OFTEN DID DHEC INSPECT THE EXIDE FACILITY?

WAS THERE A FOLLOW-UP INSPECTION TO DETERMINE IF THE OPERATION CONTINUED TO BE IN VIOLATION?

WHY WASN'T A TASK FORCE SENT BEFORE 1995?

WHY WAS THERE SUCH LACK OF ENFORCEMENT?

31. On January 20, 1995, a DHEC memo states that "during our site visit in October we discovered that children . . . were not notified of their blood laboratory results. As a result, some parents do not realize the seriousness of this problem. . . . We feel this is a significant concern which needs to be address [sic]."

²Note: No permit applications have been received for this lead oxide transfer system.

WHY WEREN'T THE PARENTS INFORMED IMMEDIATELY?

32. On April 10, 1995, notes from a DHEC meeting state that "investigation has ruled out drinking water and lead paint."

Analysis of data does show correlations among daily elevations of lead in ambient air, wind direction, and unloading shipments of lead oxide at the Exide facility.

33. In April 1996, a Consent Order 96-12-HW finally addressed this illegal operation. No fine was paid.

34. On November 4, 1996, Exide's consultant The Fletcher Group wrote a letter to Exide stating:

The total lead concentrations at the outfalls from the roof drains ranged from 258 mg/kg to 17,400 mg/kg.

For the sample locations in areas of broken or no asphalt at the rear of the facility, the surface sample concentrations ranged from 411 to 63,700 mg/kg.

The surface soil total lead concentrations [in a former storage area behind the plant] ranged from 411 mg/kg to 63,500 mg/kg.

35. On December 9, 1996, Exide's consultant The Fletcher Group issued a report indicating that the lead concentrations in King Acres subdivision ranges from 167 ppm to 2450 ppm.

WHY HASN'T EXIDE BEGUN PLANS TO REMEDIATE KING ACRES? WHY HASN'T DHEC REQUIRED REMEDIATION?

36. On December 30, 1996, a Preliminary Assessment/Site Inspection for Westgate Mobile Home Park was submitted by DHEC to the EPA.

37. On February 12, 1998, Mrs. Shirley Poteat (204 Bent Creek Dr.) initiated a lawsuit against Exide for contamination of her property. Exide purchased the property in November, 1998.

A February 19, 1997 memo from Ralph Howard, Jr. (EPA) which stated:

This work ["**FINGERPRINTING**"] would definitively tie Exide' operation to the Pb-contaminated surface soils in Westgate, and would refute the auto exhaust/busy highway nonsense.

DID ANYONE AT DHEC, EPA, OR EXIDE SERIOUSLY BELIEVE THAT THE LEAD

**CONTAMINATION OF WESTGATE WAS CAUSED BY CAR EXHAUST?
WASN'T THIS POSITION LUDICROUS?
WHY DID DHEC CONTINUE TO LEND CREDENCE TO IT, IN SPITE OF THE
OVERWHELMING EVIDENCE?**

38. On March 28, 1997, DHEC correspondence stated:

Since there is no air emission data prior to 1992, there is no conclusive evidence that over the 30 years prior to air monitoring that the facility did not contribute to soil impact in the trailer park.

**WHY ISN'T THERE AIR EMISSION DATA PRIOR TO 1992?
WHY WEREN'T EXIDE'S AIR MONITORS SITED PURSUANT TO EPA/DHEC
PROTOCOL?
WHO INTERPRETS THE DATA FROM THESE AIR MONITORS?
WHY HADN'T DHEC INSTITUTED QUALITY ASSURANCE MEASURES TO INSURE
THE INTEGRITY OF THE AIR EMISSIONS DATA?**

39. On August 13, 1997, a DHEC letter to Exide states: [T]he depth of the soil removal should be at least 6 inches.

**WHY IS THE CLEAN UP DEPTH AT 3 INCHES NOW AT WESTGATE?
WHY ISN'T DHEC REMOVING THE TOP 6 INCHES OF SOIL?**

40. On or around January 1998, Michael Smith initiated a lawsuit against Exide for lead poisoning when he lived in King Acres from April 1994 to May 1995

41. On May 15, 1998, the National Enforcement Investigations Center (NEIC) issued a report stating:

Upper confidence limits of the mean for areas represented by sets of 4 samples do not reveal any area in the trailer park where the average lead concentration is below 400 mg/kg at 95 percent confidence. In other words, variations in lead concentrations are too great over short distances (less than a meter) to distinguish areas of soil with lead concentrations below 400 mg/kg with any reasonable confidence.

42. On October 30, 1998, Exide's in-house legal counsel Ari Levine wrote:

Please understand that we do not question DHEC's right to establish more stringent standards, both under state and federal law. Rather, we merely wish to confirm our understanding that any such effort was not undertaken at EPA's direction.

WHY IS EXIDE'S LAWYER CONCERNED ABOUT EPA'S INVOLVEMENT?

IF EXIDE'S LAWYERS AGREE THAT DHEC CAN ESTABLISH THE CLEAN-UP STANDARDS, WHY HAS EXIDE REPEATEDLY REFUSED TO REMOVE SOIL ABOVE 400 PPM?

WHY DID DHEC ALLOW EXIDE TO DELAY REMEDIATION FOR YEARS?

43. On December 24, 1998, EPA wrote Exide informing them that Exide was responsible for the removal of soil at Westgate in 1994. EPA informed Exide the reimbursement cost over \$300,000.

44. On or around April 15, 1999, Exide agreed to pay \$10.25 million to settle a shareholder lawsuit that Exide artificially inflated its stock price between June 1995 and April 1998 by issuing misstatements and omitting relevant financial information.

EXIDE WROTE EPA, REFUSING TO PAY THE COST, CITING THE STATUTE OF LIMITATIONS.

DID EXIDE REIMBURSE THE EPA?

WHY WAS EXIDE ALLOWED TO DELAY PAYMENT SINCE 1994?

45. On May 14, 1999, a meeting between EPA and Exide took place. At that time, Exide stated that it was involved in clean up activities in 74 sites nationwide.

46. On May 25, 1999, EPA wrote to DHEC explaining that Exide was requesting another extension "to collect site-specific indoor dust and tap water data."

WHY DID EPA AGREE TO THIS?

WASN'T DUST AND WATER SAMPLES TAKEN IN 1995-1996?

WHY WAS EXIDE ALLOWED TO STALL REMEDIATION FOR SO MANY YEARS?

47. On May 27, 1999, Exide agreed to pay \$2.75 million to end an investigation by Florida's attorney general into allegations that Exide defrauded customers by selling used and defective batteries. The company agreed, in a letter to the attorney general, to collect "substantial sums due" from former executives who engaged in "certain questionable transactions" when Exide "lacked adequate internal controls."

48. On June 15, 1999, DHEC wrote Exide to demand a "work plan for conducting any additional sampling in King Acres." The letter goes on to state:

If you feel additional sampling and/or modeling is not required, then a remediation plan for King Acres which delineates the areas of removal to 400 ppm should be submitted within 45 days of the receipt of this letter.

WHY DOES DHEC BELIEVE ADDITIONAL SAMPLING IS NECESSARY?
WHY HASN'T AN IEUBK FINGERPRINT MODEL BEEN DONE FOR KING ACRES?
WHY IS DHEC ALLOWING EXIDE TO DECIDE IF ADDITIONAL SAMPLING IS NEEDED?
WHAT WAS EXIDE'S RESPONSE?
WHEN IS REMEDIATION GOING TO BE DONE FOR KING ACRES?

49. On June 21, 1999, EPA wrote a letter to Exide in response to Exide's letter of May 28, 1999 requesting a compromise of EPA past response cost at the Westgate Trailer Park site. The letter states:

The essential point of your letter seems to be that Exide Corporation agreed with the State of South Carolina, early on in the Superfund process, to provide clean up response at the Westgate site. Hence, there was no need for EPA to investigate the source of, or Exide's liability for, lead contamination on the site, and the incurrence of the costs associated with the investigation was also unnecessary

The letter further states:

Regardless of all the Company's assurances of its willingness to negotiate and conduct cleanup, not a single response action (in the field) has been conducted at the site.

In the meantime, Exide has continuously offered to negotiate cleanup while steadfastly refusing to physically cleanup a site on which people, including children, exhibiting substantial lead blood levels, reside and traffic

50. On June 22, 1999, Mr. Mark Byars (103 Bent Creek Dr.) Initiated a lawsuit against Exide for contamination of his property. To date, Exide has purchased at least 16 lots in the King Acres subdivision.

51. On or around July 1999, the Illinois attorney general initiated an investigation into Exide's trade practices and operation.

52. On or around August 1999, 21 lawsuits were initiated against Exide by residents of Westgate Mobile Home Park or ex-employees for lead poisoning.

Throughout 1997, 1998, and 1999, correspondence between Exide and DHEC shows Exide's refusal to agree to the reasonable clean up of 400 ppm. From July 14, 1994, Exide was aware that the EPA memo entitled *Revised Interim Soil Lead guidance for CERCLA Sites and RCRA Corrective Action Facilities* establishes the clean up level of 400 ppm.

WHY DID DHEC ALLOW EXIDE TO DELAY REMEDIATION FOR SO MANY YEARS?
WHY DIDN'T DHEC START REMEDIATION IN 1997? OR EARLIER?

WHAT BASIS DID EXIDE HAVE TO DISAGREE WITH THIS CLEAN-UP LEVEL?
WASN'T THE CLEAN UP PART OF A CONSENT ORDER?
WHY DID EXIDE INSIST ON 500 PPM WHEN THE RESULTS OF A MAJORITY OF THE
SAMPLES EXCEEDED 500 PPM?
DID DHEC REQUEST INFORMATION ON OTHER REMEDIATION PROJECTS THAT
EXIDE WAS INVOLVED IN THROUGHOUT THE COUNTRY?
IS THE 400 PPM CLEAN UP LEVEL THE DEFAULT LEVEL?
DIDN'T DR. MARINO SUGGEST 250 PPM AS A CLEAN UP LEVEL YEARS EARLIER?
ISN'T THERE SUFFICIENT SITE-SPECIFIC LEAD DATA THAT SUPPORTS A LOWER
ALTERNATIVE REMOVAL LEVEL?
WHY DIDN'T DHEC DO ANYTHING TO PROTECT THE CHILDREN FROM LEAD
POISONING FOR SO MANY YEARS?
WHY WAS EXIDE ALLOWED TO CONTINUE CONTAMINATION AND DELAY
REMEDATION FOR SO MANY YEARS?
WHY SUCH LACK OF ENFORCEMENT?

III. CONCLUSION


For two decades Exide was allowed to contaminate these two neighborhoods (Westgate Trailer Park and King Acres). DHEC never instituted meaningful enforcement, and Exide continued to discharge and emit massive quantities of lead into the atmosphere and environment. In the 1990's, when DHEC finally began discussing remediation, Exide was allowed to delay remediation for years. As early as 1991 DHEC documented that children were being dangerously exposed to lead from Exide, yet nothing was done to remove the children from the danger, and virtually nothing done to Exide to abate the contamination. Now numerous children are suffering from serious physical and mental problems due to this lead exposure. Remediation and enforcement are long overdue. Children in both neighborhoods continue to be exposed further to the lead contamination. Through its laxity, DHEC has facilitated Exide's poisoning of these children.

To date, no remediation whatsoever has begun in King Acres. At present, Exide continues to lease contaminated residences to families with children there. At Westgate, remediation of only three inches of soil is planned. DHEC should require immediate remediation of at least 6 inches of soil in both neighborhoods. We applaud Mr. Wilson's recent efforts to require some remediation, but much more is needed.

Further, DHEC should examine its own record of laxity with Exide, which resulted in such contamination and poisoning of children. For example, at one point several years ago, Dr. Marino suggested removing the children from the Trailer Park, yet this was apparently vetoed, and no further action was taken. How did this happen?

Finally, meaningful enforcement of Exide for these abuses should take place.

Yours very truly,


GARY W. POLIAKOFF
ATTORNEY AT LAW, P. A.

GWP:lr

Enclosures

c: (w/o enclosures)
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